

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Preston Mullinax,	)	Civil Action No. 4:14-2047-RMG
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Lt. James Martin,	)	
	)	
Defendant.	)	
	)	

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending that the Complaint be dismissed with prejudice for lack of prosecution. The Court adopts the Report and Recommendation and dismisses the Complaint with prejudice.

Plaintiff is incarcerated with the South Carolina Department of Corrections at Tyger River Correctional Institution serving a twelve-year sentence for second-degree burglary, assault and battery of a high and aggravated nature, grand larceny, breaking into a motor vehicle, and failing to stop for an officer. He contends that while incarcerated at Evans Correctional Institution on October 12, 2012, he was denied a blanket while held in crisis intervention and that on February 24, 2014, he was subjected to excessive force when removed from his cell and chemical munitions were deployed. He filed the present action on May 27, 2014, requesting a permanent injunction against prison staff, compensatory and punitive damages, and costs.

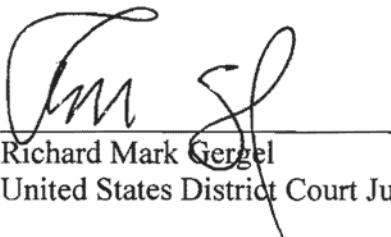
Defendants moved for summary judgment on December 7, 2015. Plaintiff has never responded to that motion. The Magistrate Judge caused a Roseboro order to be sent to Plaintiff on December 8, 2015 (ordering Plaintiff to respond by January 11, 2016) and on February 2, 2016, again ordered Plaintiff to respond (by February 12, 2016). On February 22, 2016, the Magistrate Judge recommended dismissal with prejudice for lack of prosecution. Plaintiff has filed nothing

since October 28, 2014.

This case meets the criteria for dismissal with prejudice given in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919 (4th Cir. 1982). Plaintiff is personally responsible for proceeding in a dilatory fashion, having failed to comply with orders and having filed nothing in well over one year. His refusal is prejudicial to Defendants, causing them to continue to incur legal expenses. No sanctions appear to exist other than dismissal, given the previous warnings and extensions provided.

Therefore, the Court **ADOPTS** the Report and Recommendation (Dkt. No. 61) as the Order of this Court and **DISMISSES WITH PREJUDICE** the Complaint (Dkt. No. 1).

**AND IT IS SO ORDERED.**



Richard Mark Gergel  
United States District Court Judge

March 11, 2016  
Charleston, South Carolina